



ROBERT G. ATKINS

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County of San Diego

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CERTIFIED FARMERS' MARKET CERTIFICATE APPLICATION

Enclosed is an application for a Certified Farmers' Market Certificate. The fee for a Certified Farmers' Market Certificate is **\$150.00**. Fee payment must be included with the application to initiate the certification process. A certificate is effective for twelve months from the date of issue.

To qualify as an operator of a Certified Farmers' Market (CFM), you must be one of the following:

- Certified Producer
- Nonprofit Organization
- Local Government Agency

In addition to the completed application and fee payment, other documents are required to be submitted to confirm your eligibility for participation in the Direct Marketing program (see required documents on back of this page). Your application cannot be processed without submittal of the required documentation. If you are currently operating a Certified Farmers' Market and wish to avoid market closure, submit the application, fee and all documentation prior to the current CFM certificate's expiration date. **Please be aware that a certificate will not be renewed unless all outstanding fees have been paid in full.**

All agricultural products, when sold or offered for sale at a certified farmers' market, shall also comply with all applicable requirements of:

1. California Food and Agricultural Code
2. California Code of Regulations
3. California Uniform Retail Food Facilities Law, Chapter 4, Articles 1 (beginning with Section 113700), 2, 3, 4, 5, 6, 7, 11, 13, and 15.
4. California Health and Safety Code, Division 104, Part 5 and 7, Chapters 1 (beginning with Section 109875) 2, 4, 5, and 8 of the California Sherman Food, Drug, and Cosmetic Law.

Enclosed are excerpts from the California Food and Agricultural Code, the California Code of Regulations, and the California Health and Safety Code detailing some of the requirements for operators involved in the Direct Marketing Certified Farmers' Market program.

Note re: FOOD SERVICES: All special events (including street fairs, festivals, and some Certified Farmers' Markets) that involve food service/sales to the public will require a separate permit from the County of San Diego Department of Environmental Health (DEH). For more information, please call DEH at (619) 338-2329.

A Certified Farmers' Market Certificate (CFM) will not be issued until the following documents are received and approved. Please use as a checklist prior to submitting application:

If applying as a Certified Producer:

- ☐ Completed application with applicable fee
- ☐ Copy of your valid Certified Producer Certificate
- ☐ Copy of Certified Farmers' Market Rules with current date of publication
- ☐ List of the names of certified producers selling at market
- ☐ Detailed map of market location, cross streets, and CFM boundaries

(NOTE: Only agricultural products may be sold within the boundaries of a CFM. Any non-agricultural product sales must be conducted as part of a separate event outside of the CFM.)

- ☐ A clear, concise and accurate written description of Certified Farmers' Market area
- ☐ Copy of Load Sheet (form used to record daily sales by participants)

If applying as a Nonprofit Organization:

- ☐ Completed application with applicable fee
- ☐ Copy of California Franchise Tax Board nonprofit status documentation
- ☐ Copy of Certified Farmers' Market Rules with current date of publication
- ☐ List of the names of certified producers selling at market
- ☐ Detailed map of market location, cross streets, and CFM boundaries

(NOTE: Only agricultural products may be sold within the boundaries of a CFM. Any non-agricultural product sales must be conducted as part of a separate event outside of the CFM.)

- ☐ A clear, concise and accurate written description of Certified Farmers' Market area.
- ☐ Copy of Load Sheet (form used to record daily sales by participants)
- ☐ Letter authorizing market manager to act on behalf of nonprofit organization

If applying as a Local Government Agency:

- ☐ Completed application with applicable fee
- ☐ Copy of Certified Farmers' Market Rules with current date of publication
- ☐ List of the names of certified producers selling at market
- ☐ Detailed map of market location, cross streets, and CFM boundaries

(NOTE: Only agricultural products may be sold within the boundaries of a CFM. Any non-agricultural product sales must be conducted as part of a separate event outside of the CFM.)

- ☐ A clear, concise and accurate written description of Certified Farmers' Market area.
- ☐ Copy of Load Sheet (form used to record daily sales by participants)
- ☐ Letter authorizing market manager to act on behalf of government agency

If you have any questions, please contact Cindy Davis, Supervising Inspector at (858) 694-2729.

ROBERT G. ATKINS

Agricultural Commissioner

Sealer of Weights and Measures



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County of San Diego

APPLICATION FOR CERTIFIED FARMERS' MARKET

APPLICANT IS (CHECK ONE)

☐ Certified Producer(s) ☐ Local Government Agency ☐ Nonprofit Organization*

APPLICANT INFORMATION

NAME OF APPLICANT:	BUSINESS PHONE ()
MAILING ADDRESS:	RESIDENCE PHONE ()
CITY AND ZIP:	FAX NUMBER ()
RESIDENCE:	OTHER NUMBER ()
CITY AND ZIP:	E-MAIL ADDRESS

MARKET INFORMATION

MARKET NAME:	
MAILING ADDRESS:	BUSINESS PHONE ()
CITY AND ZIP:	RESIDENCE PHONE ()
MARKET MANAGER NAME	FAX NUMBER ()
E-MAIL ADDRESS	

MARKET LOCATION

(Include City and Cross Streets)			
CITY	ZIP	COUNTY	SAN DIEGO

PLANNED SCHEDULE OF OPERATION

MONTHS	TO	DAYS
HOURS	TO	EST. # OF CERTIFIED PRODUCER STALLS PER QUARTER

As the applicant, I hereby certify that the information provided on this application is true and that the Certified Farmers' Market will be operated in compliance with the Direct Marketing regulations as provided in Title 3, Chapter 3, Group 4, Article 6.5 of the California Code of Regulations.

Printed Name _____ CHECK ONE:
☐ Applicant ☐ Applicant Representative

Signature _____ Date _____

Article 6.5. Direct Marketing

§1392. Intent

The intent of this article is to facilitate the sale of agricultural products from producers and certified producers within the state directly to consumers while maintaining sufficient regulatory control to ensure that the agricultural products are of acceptable quality and that the selling activities are conducted honestly and fairly.

NOTE: Authority cited: Sections 14, 407, 42682, 42684, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103, and 58104, Food and Agricultural Code.

HISTORY

1. New article 6.5 (~~sections 1392-1392.11~~) filed 3-31-77; effective thirtieth day thereafter (Register 77, No. 14).
2. Amendment filed 3-30-79; effective thirtieth day thereafter (Register 79, No. 13).
3. Amendment of section filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.1. Direct Marketing Authorized.

(a) Notwithstanding other provisions of this Group, this article authorizes producers or certified producers of certified or noncertifiable agricultural products to sell their products, as defined in this article, directly to consumers, subject to the provisions of this article.

(b) A certified producer may sell agricultural products, which he/she has produced, at a certified farmers' market.

(c) A producer may only sell noncertifiable agricultural products which he/she has produced, at a certified farmers' market, or agricultural products which he/she has produced, at or near the point of production.

(d) Fresh fruits, nuts, and vegetables may be sold directly to consumers exempt from size, standard pack, container, and labeling requirements only by:

(1) The certified producer of the agricultural products at a stand at a certified farmers' market; or

(2) The producer of the agricultural products at a retail stand located at or near the point of production.

(e) All fresh fruits, nuts, and vegetables sold pursuant to this article shall comply with the regulations of the California Code of Regulations, title 3, subchapter 4, beginning with section 1359, governing maturity and quality.

(f) Excluding fresh fruits, nuts, and vegetables, agricultural products, as defined in this article, which are sold or offered for sale at a certified farmers' market or at or near the point of production, must comply with all applicable laws and regulations pertaining to quality and labeling.

(g) This article does not supersede the provisions of federal marketing orders, state marketing orders, state laws and regulations enforced by any state agency, or any other local health and safety laws, regulations, or ordinances.

NOTE: Authority cited: Sections 407, 42681, 42682, 42684, 47000, 47001 and 47003, Food and Agricultural Code. Reference: Sections 42941, 47002 and 47003, Food and Agricultural Code.

HISTORY

1. Amendment and numbering of undesignated introductory paragraph as subsection (a), repealer of remaining paragraphs with new subsections (b)-(e) and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).
2. Amendment of subsection (d) and Note filed 2-4-2002 as an emergency; operative 2-4-2002 (Register 2002, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2002 or emergency language will be repealed by operation of law on the following day.

§1392.2. Definitions.

Unless the context otherwise requires, the following definitions govern the construction of the language in this article.

(a) Certified Farmers' Market. A location approved by the county agricultural commissioner of that county where agricultural products are sold by producers or certified producers directly to consumers. A certified farmers' market may be operated by one or more certified producers, by a nonprofit organization, or by a local government agency.

(b) Certified Farmers' Market Certificate. A certificate issued by the county agricultural commissioner authorizing the location where agricultural products are sold by the producers directly to consumers. The certificate is valid only when bearing the original signatures of the county agricultural commissioner and the authorized representative of the certified farmers' market.

(c) Land Which the Producer or Certified Producer Controls. Land that the producer or certified producer farms and owns, rents, leases, or sharecrops.

(d) Producer. A person or separate entity that produces agricultural products by practice of the agricultural arts upon land which the person or separate entity controls. Producer may be, for the purposes of this article, a person, partnership, corporation or any other entity.

(e) Certified Producer. A producer authorized by the county agricultural commissioner to sell certified agricultural products, produced by practice of the agricultural arts upon land which the certified producer controls, directly to consumers at a certified farmers' market.

(f) Certified Producer's Certificate. A certificate issued by the county agricultural commissioner in the county of production authorizing the transportation and sale of certified products pursuant to this article.

(g) Consumer. A person who purchases and receives agricultural products at or near the point of production or at a certified farmers' market. It excludes a person who purchases fresh fruits, nuts, and vegetables for commercial resale unless such products comply with all applicable size, standard pack, containers, and labeling requirements.

(h) Direct Marketing. The sale:

(1) At a certified farmers' market of agricultural products by a certified producer to a consumer; or

Title 3. California Code of Regulations

(f) A certified farmers' market may allow, or prohibit, a certified producer or his/her immediate family member or employee to sell at that market certified agricultural products on behalf of a maximum of two other certified producers including, but not limited to, separate entities, such as partnerships, in which the certified producer has an interest as an individual member. If such practice is allowed, the following provisions shall be met by the certified producer and shall be specified in the certified farmers' market's rules and regulations:

(1) A certified producer shall not represent, nor be represented by more than two other certified producers in a 12-month period.

(2) Each certified producer's certified agricultural products to be sold or offered for sale shall be separated and identifiable by each certified producer's valid certificate at the point of sale.

(3) The name of the certified producer for whom another certified producer is selling shall appear on the certificate of the certified producer that is conducting sales at a certified farmers' market.

(4) The name of the certified producer who is selling the products of another certified producer shall appear on the certificate of the person or entity for whom the certified producer is selling.

(5) The certified producer selling for another certified producer shall be selling or offering for sale, at the same certified farmers' market on the same day, certified agricultural products which the certified producer conducting the sales has produced and which are in greater volume than the volume offered for sale for the other certified producer. For purposes of this section, the volume shall be measured by the weight or dollar value of the products at the time and point of sale. This volume requirement shall apply only at the beginning of each day of sale.

(6) The producer applying for certification shall obtain and submit to the agricultural commissioner, prior to certification, written authority from said other certified producers to sell on their behalf.

(7) Commission sales and buying and selling between certified producers is prohibited. Any payment made for the service of one certified producer selling for another certified producer shall not be related to the volume or value of the products sold.

(8) The operator of a certified farmers' market may prohibit or otherwise establish rules regarding sales permitted under this subsection that are more restrictive, provided that such prohibition or restriction is contained in the market's written rules and regulations.

(9) A certified producer who sells certified agricultural products on behalf of another certified producer or whose products are sold by another certified producer at a certified farmers' market shall keep for a period of not less than three years, the following records relating to such products:

(i) Date of transfer to seller and accurate amount of products, by weight, dry measure, or count, transferred. Each separate product and amount shall be recorded according to variety.

(ii) Date of sale and accurate amount of products, by weight, dry measure, or count, sold. Each separate product and amount shall be recorded according to variety.

(iii) Names of both certified producers involved.

(10) A certified producer subject to this subdivision shall produce, for inspection, records required by this section upon demand of a representative of the department or county agricultural commissioner.

(g) The provisions of this section, and any amendments thereof, shall apply to all new certified producer's certificates, including renewals, upon filing with the Secretary of State, unless another effective date has been designated by the Office of Administrative Law. Certified producer's certificates already issued shall conform to the requirements of this section, and any amendments, within twelve (12) months of the certificate issue date.

NOTE: Authority cited: Sections 407, 42682, 47000, 47001, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Sections 42941, 47000, 47001, 47003 and 47004, Food and Agricultural Code.

HISTORY

1. Amendment of subsection (a) filed 3-30-79; effective thirtieth day thereafter (Register 79, No. 13).
2. Amendment of subsection (a) filed 4-4-79; effective thirtieth day thereafter (Register 79, No. 13).
3. Amendment of subsection (a) filed 2-3-82; effective thirtieth day thereafter (Register 82, No. 6).
4. Amendment of subsection (a), amendment and renumbering of subsections (b) to (e), (c) to (f), with new subsections (b), (c), (d) and (g) filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).
5. Amendment of subsections (g)-(g)(3) and amendment of Note filed 1-30-97; operative 3-1-97 (Register 97, No. 5).
6. Amendment of subsections (a) and (g), new subsections (g)(1), (g)(3) and (g)(4), subsection renumbering, amendment of subsections (g)(7)-(10) and amendment of Note filed 12-9-99; operative 1-8-2000 (Register 99, No. 50).
7. Amendment of section and Note filed 5-4-2001 as an emergency; operative 5-4-2001 (Register 2001, No. 18). A Certificate of Compliance must be transmitted to OAL by 9-4-2001 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to 5-4-2001 emergency action by operation of Government Code section 11346.1(f) (Register 2001, No. 48).
9. Amendment of section and Note filed 11-28-2001; operative 12-28-2001 (Register 2001, No. 48).
10. Amendment of subsections (f) and (f)(3)-(5), new subsection (g) and amendment of Note filed 2-4-2002 as an emergency; operative 2-4-2002 (Register 2002, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-4-2002 or emergency language will be repealed by operation of law on the following day.

§1392.5. Producer Certification Procedures.

(a) A producer may become certified by applying to the agricultural commissioner of the county where the producer's farm is located. A producer who farms in more than one county must be certified in each county where he/she produces

Title 3. California Code of Regulations

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Amendment of subsection (a), amendment and renumbering of subsection (b) to (c), and new subsections (b) and (d), and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.8. Fees

The county agricultural commissioner may charge a fee for issuing, modifying, verifying, or renewing any certificate, including embossed photocopies, as set by the board of supervisors of that county.

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Amendment of heading and section with new NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.8.1. Certified Farmers' Market Fees

(1) Every operator of every certified farmers' market shall remit to the Department of Food and Agriculture sixty cents (\$0.60) for each certified producer represented by each certified producer's certificate and other agricultural producers participating in the market(s) on each market day for the entire quarter. The fee shall be submitted within 30 days after the end of each quarter with a form containing the following information:

- (a) Name of market sponsor
- (b) Market certificate number
- (c) Name and address of the market
- (d) Name of market contact person.
- (e) Market day(s) and hours of operation
- (f) Telephone number and fax number through which the market representative can be reached during normal work hours.
- (g) Quarterly period for which the report is submitted.
- (h) Total number of certified producer certificates and other agricultural producers participating on each market day of the entire quarter.

- (i) Amount of fees submitted
 - (j) Signature of authorized market representative.
- (2) Any operator who fails to pay the required fee within thirty (30) days after the end of the quarter in which it is due shall pay a late monthly interest penalty of one and one half (1 1/2) percent monthly amount on the unpaid balance.

NOTE: Authority cited: Sections 407, 42682, 47000, 47001 and 47021, Food and Agricultural Code. Reference: Sections 42941, 47002, 47003, 47004, 47004.1 and 47021, Food and Agricultural Code.

HISTORY

1. New section filed 12-30-99 as an emergency; operative 1-1-2000 (Register 99, No. 53). A Certificate of Compliance must be transmitted to OAL by 5-1-2000 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 12-30-99 order transmitted to OAL 4-19-2000 and filed 5-17-2000 (Register 2000, No. 20).

§1392.9. Direct Marketing, Compliance Requirements for the Operator of a Certified Farmers' Market.

(a) The operator of a certified farmers' market shall ensure that each person participating in the sale of agricultural products in the area designated as a certified farmers' market:

- (1) Is a producer, certified producer, or their immediate family member or employee.
- (2) Sells only certified and noncertifiable agricultural products.
- (3) Has in their possession, in the case of certifiable agricultural products, a valid certificate that is posted at the point of sale.
- (4) Has each certifiable agricultural product in their possession listed on the certified producer's certificate.
- (5) Who sells noncertifiable agricultural products sells only those products which were produced in accordance with the certified farmers' market's rules and regulations.

(6) Who represents another certified producer under an additional certificate, separates and identifies the items listed on each respective certificate, and that the name of the certified producer they are selling for appears on both of the certificates.

(b) The operator of a certified farmers' market shall obtain from each person participating in the sale of agricultural products in the area designated as a certified farmers' market an itemized list of all products sold at the certified farmers' market each market day.

(1) The product list shall state the name of the certified producer, the identity of each product sold as it appears on the certified producer's certificate, and the quantity of each product sold at the market.

(2) The market operator shall keep the list of products sold for a period of not less than eighteen months.

NOTE: Authority cited: Sections 407, 42682, 47000, 47002, 47003 and 47004, Food and Agricultural Code. Reference: Section 42941, Food and Agricultural Code.

HISTORY

1. New section filed 12-9-99; operative 1-8-2000 (Register 99, No. 50). For prior history, see Register 91, No. 47

§1392.9.1. Direct Marketing. Requirements for Partnerships, Sharecropping Agreements, and Similar Contractual Agreements.

(a) Every person or entity that enters into a partnership as defined in Section 1392.2(s), sharecropping, or similar contractual agreement with another person(s) or entity and that applies for a certified producer's certificate under such agreement shall provide the issuing agricultural commissioner, at the time of application, with proof of partnership as defined

Title 3. California Code of Regulations

- (1) The certificate holder; or
 - (2) A family member, employee, or another certified producer acting on behalf of the certificate holder; or
 - (3) Any other person whose actions may have resulted in the violation.
- (b) The notice of hearing shall be on a form approved by the director and contain:
- (1) Specific provisions violated; and
 - (2) A warning to cease such violations; and
 - (3) A hearing date to determine if the certificate(s) involved in the violations or participation privileges should be revoked.

(c) The county agricultural commissioner, upon determination that a violation has been made in accordance with (a), above, may:

(1) Suspend and/or refuse, for a period of up to 18 months, to issue a certificate to the violator; and/or

(2) Suspend, for a period of up to 18 months, the privilege of participation, under the provisions of this article, of any person whose action resulted in the violation

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5, 58102 and 58103, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Repealer with new subsections (a)-(c) and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.11. Appeals.

Any person may appeal to the director for a hearing if aggrieved by any one of the following actions or decisions:

- (a) Denial of any certificate.
- (b) Suspension of any certificate.
- (c) Suspension of participation privileges.
- (d) Adoption of more stringent rules or regulations pertaining to the operation of certified farmers' markets

In all cases, the appeal must be submitted to the director in writing within 30 days of the date the action or decision was made. The director's proceeding shall, insofar as practicable, comply with the provisions of the Administrative Procedure Act (Government Code, Section 11500, et seq.), except that a department hearing officer may be used.

NOTE: Authority cited: Sections 14, 407, 42681, 42682, 42684, 58101.5 and 58104, Food and Agricultural Code. Reference: Sections 42941, 58101, 58101.5, 58102, 58103 and 58104, Food and Agricultural Code.

HISTORY

1. Repealer with new undesignated introductory paragraph, subsections (a)-(d), and undesignated final paragraph and NOTE filed 7-26-91; operative 7-26-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 47).

§1392.12. Emergency Declaration.

(a) The director may, on an as needed, case by case basis, waive or modify specific restrictions within this Article on the direct marketing of agricultural products, including, but not limited to, restrictions or limitations on production acreage

and commodities, as well as certification requirements, if a declared plant, pest or animal quarantine, a declared natural disaster or a declared catastrophic emergency interferes with the normal operative effect of the rules.

(b) Any waivers or modifications shall be consistent with any quarantine, and the response to any natural disaster or catastrophic emergency.

(c) Prior to the utilization of any waivers or modifications, certified producers and certified farmers' markets shall enter into compliance agreements with California Department of Agriculture through the county agricultural commissioner in the county in which their certificates have been issued.

NOTE: Authority cited: Sections 407, 47000, 47001, 47002, 47003, 47004, 47005, 47005.1 and 47020, Food and Agricultural Code. Reference: Sections 47000, 47001, 47002, 47003, 47022, 47022.3 and 47022.6, Food and Agricultural Code.

HISTORY

1. New section filed 12-24-2002 as an emergency; operative 12-24-2002 (Register 2002, No. 52). A Certificate of Compliance must be transmitted to OAL by 4-23-2003 or emergency language will be repealed by operation of law on the following day.

47005.2. An enforcing officer may seize and hold as evidence all or any part of any container, pack, load, bulk lot, consignment or shipment of products which is packed, delivered for shipment, loaded, shipped, transported, or sold to secure the conviction of the party the enforcing officer knows or believes has violated or is violating any provision of this chapter or the regulations adopted thereunder.

47005.3. Any evidence that is seized under the authority of this chapter or the regulations adopted thereunder by an enforcing officer in any county may be admitted into evidence in any action taken by any other county.

Article 2. Certified Farmers' Market Advisory Committee

47010. (a) The secretary shall establish a committee which shall be known as the Certified Farmers' Market Advisory Committee. The primary goal of the committee shall be to ensure the integrity of certified farmers' markets.

(b) The committee shall be composed of 17 members and their alternates. The secretary shall appoint the members of the committee from a list of nominees provided by the industry subject to this chapter. The secretary shall appoint eight members and their alternates who shall be active certified producers, four members and their alternates who shall be certified farmers' market managers or representatives, two representatives from different major state direct marketing associations, one public member, and two members and their alternates who shall be county agricultural commissioners. An alternate member shall serve at a committee meeting only in the absence of, and shall have the same powers and duties as, the member for whom he or she is designated as alternate.

(c) The secretary shall appoint only one certified producer, certified farmers' market manager, or representative to represent any one farm or certified farmers' market and shall make every effort to ensure that there is a diverse representation from major production and market areas.

(d) The committee shall meet at the request of the secretary, the committee chairperson, or upon the request of four committee members. It shall meet at least once each year.

(e) The committee shall appoint its own officers, including a chairperson, a vice chairperson, a secretary, and any other officers it deems necessary. The committee may adopt rules that it deems necessary for the conduct of its meetings and functions to carry out the objectives of this chapter.

47011.. The committee shall be advisory to the secretary on all matters pertaining to direct marketing of agricultural products at certified farmers' markets and may make recommendations including, but not limited to, the following:

(a) The amendment, repeal, or adoption of legislation and regulations that relate to the administration and enforcement of this chapter.

(b) Administrative policies and procedures that relate to the inspection of certified producers and certified farmers' markets.

(c) Administrative civil penalties for violations of direct marketing regulations.

(d) Certification fees collected pursuant to Section 47020.

(e) Statewide review of enforcement actions.

(f) The annual budget of the department to carry out this chapter and the assessment of fees to pay for the costs incurred by the department to carry out this chapter.

(g) Alternative strategies for certification and investigation methodology, and methods for industry self-regulation and commission formation.

47012. (a) Except as provided in subdivisions (b) and (c), the term of any member of the committee shall be two years.

(b) With respect to the terms of initial members of the committee, eight members shall serve for one year and nine members shall serve for two years, with the determinations of the term of each member to be made by lot. No member of the committee shall serve more than four full consecutive two-year terms.

(c) Any vacancy that occurs during an unexpired term shall be filled by appointment for the unexpired term.

47013. The members of the committee and any alternate shall serve without compensation, but may be reimbursed by the department for travel expenses incurred in the performance of their duties.

Article 3. Certificates

47020. (a) A certified farmers' market certificate issued by a county agricultural commissioner shall be valid for 12 months from the date of issue. The county agricultural commissioner shall inspect every certified farmers' market within his or her jurisdiction at least once, in every six months of operation. The county agricultural commissioner may charge a certification and inspection fee up to a maximum rate of sixty dollars (\$60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the certified farmers' market manager prior to the payment of the fee.

(b) A certified producer's certificate issued by a county agricultural commissioner may be valid for up to 12 months from the date of issue. The county agricultural commissioner in each county shall perform at least one annual onsite inspection of the property or properties listed on every certified producer's certificate issued in their county to verify production of the commodities listed on the certificate or the existence in storage of the harvested production, or both. If the certificate is issued for a period of seven months or more, the county agricultural commissioner in each county shall perform at least one additional onsite inspection or other equally appropriate measure to verify production or storage, or both. The county agricultural commissioner may charge a certificate and inspection fee up to a maximum rate of sixty dollars (\$60) per hour, unless the county board of supervisors elects not to charge inspection and certificate costs. Inspections shall be required notwithstanding a county board of supervisors' election not to charge certificate and inspection fees. If a fee is charged for conducting the certification and inspection, it shall include either the itemized actual costs, or the weighted average hourly rate, as determined on an annual basis by the county, which shall be provided to the producer prior to the payment of the fee.

(c) Renewal of a certified farmers' market certificate or certified producer's certificate may be denied by either the department or a county agricultural commissioner if a certified farmers' market or a certified producer is delinquent in the payment of the required state fee or any county certification and inspection fee or administrative civil penalty authorized under this chapter. The certificate shall be eligible for renewal when all outstanding balances and associated penalties or administrative fines have been paid to the department or the respective county or counties.

47021. (a) Commencing January 1, 2000, every operator of a certified farmers' market shall remit to the department, within 30 days after the end of each quarter, a fee equal to the number of certified producer certificates and other producers participating on each market day for the entire previous quarter. The fee shall be established by January 1 of each year by the department upon the

47022.3. It is unlawful for any person when operating under the provisions of this chapter or the regulations adopted thereunder to falsify any documents or to make any statement, representation, or assertion orally, by public outcry, proclamation, or in writing, or by any other manner or means whatever, that concerns the quality, size, maturity, condition, or any other matter that relates to products which is false, deceptive, or misleading in any particular.

47022.4. It is unlawful for any person when operating under the provisions of this chapter or the regulations adopted thereunder to remove or dispose any products, or their containers to which any warning tag or notice has been affixed by an enforcing officer, or to remove the warning tag or notice from the place where it is affixed, except under a written permit to do so from an enforcing officer or under his or her specific direction.

47022.5. It is unlawful for any person when operating under the provisions of this chapter or the regulations adopted thereunder to refuse to submit any container, subcontainer, load, or display of products to the inspection of an enforcing officer, or to refuse to stop any vehicle which contains products for the purpose of inspection by an enforcing officer.

47022.6. It is unlawful for any person when operating under the provisions of this chapter or the regulations adopted thereunder to refuse to submit to inspection by an enforcing officer of any property used in the sales, storage, or production of agricultural products.

47022.7. It is unlawful for any person when operating under the provisions of this chapter or the regulations adopted thereunder to alter in any respect any certified producer's certificate, any certified farmers' market certificate, any notice of violation, report, statement, or other document that is referred to in this chapter, which is issued by an enforcing officer.

47025. (a) In lieu of prosecution, but not precluding suspension or revocation of certified producer's certificates or certified farmers' market certificates, the secretary or the county commissioner may levy a civil penalty against a person who violates this chapter or any regulation implemented pursuant to this chapter. Actions to administer administrative civil penalties, suspensions, or both, against a certified producer may be made by the county agricultural commissioner who either issued the certified producer's certificate or issued the violation, regardless of the county or counties where the violation occurred, or where the certified producer's certificate originated. The secretary may take action to administer administrative civil penalties, suspensions, or both, against a certified producer, regardless of the county or counties where the violation occurred, or where the certified producer's certificate originated.

(b) Civil penalties shall be levied in proportion to the violation, measured as either "serious," "moderate," or "minor."

(1) "Serious" violations are repeat or intentional violations, punishable by a civil penalty of not less than four hundred one dollars (\$401) and up to a maximum of one thousand dollars (\$1,000) per violation.

(2) "Moderate" violations are repeat violations or violations that are not intentional, punishable by a civil penalty of not less than one hundred fifty-one dollars (\$151), but not more than four hundred dollars (\$400) per violation.

(3) "Minor" violations are violations that are procedural in nature, punishable by a civil penalty of not less than fifty dollars (\$50), but not more than one hundred fifty dollars (\$150) per violation.

(c) Before a civil penalty is levied pursuant to this section, the person charged with the violation shall receive written notice of the proposed action including the nature of the violation and the amount of

(f) In addition to the civil penalties prescribed in subdivision (b), the appellant may be required to cover the cost of the administrative hearing unless the decision of the secretary or county agricultural commissioner is overturned.

(g) "Person," as used in this section, means any applicant for a certified producers' certificate or certified farmers' market certificate, producer of agricultural products, certified producer, family member or employees of a certified producer, certified farmers' market manager, or certified farmers' market operator engaged or involved in the direct marketing of agricultural products at a certified farmers' market pursuant to this chapter.

47026. This article shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.



ROBERT G. ATKINS

AGRICULTURAL COMMISSIONER/
SEALER OF WEIGHTS AND
MEASURES

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June 26, 2009

**TO: CERTIFIED FARMERS' MARKET MANAGERS
CERTIFIED PRODUCERS
SAN DIEGO COUNTY FARM BUREAU**

**RE: DIRECT MARKETING GUIDELINES FOR ADMINISTRATIVE CIVIL
PENALTIES**

Enclosed are the Direct Marketing Program guidelines for administrative civil penalties. The guidelines are intended to gain compliance while providing uniform enforcement. The direct marketing program promotes fair competition among participants and ensures consumer confidence in the quality and integrity of the markets.

These guidelines were recommended and accepted by the Certified Farmers' Market Advisory Committee and the County Agricultural Commissioners on May 13, 2002. They were distributed to all Certified Farmers' Markets, the Southland Farmers' Market Association and the California Federation of Certified Farmers' Markets on or about June 6, 2002. We are distributing the guidelines again to ensure that Certified Farmers' Market participants are aware of them.

Please be advised that violations of Chapter 10.5 of the California Food and Agricultural Code and/or Title 3, Article 6.5 of the California Code of Regulations may result in civil administrative penalties pursuant to section 47025 and the attached guidelines.

We appreciate your continued cooperation in maintaining compliance as a certified producer, or as a market manager at your certified farmers' market. Market managers are encouraged to post or distribute copies of the guidelines for your participants.

If you have any questions, please call (858) 694-2778.

ROBERT G. ATKINS
Agricultural Commissioner/
Sealer of Weights and Measures

Enclosure

ADMINISTRATIVE CIVIL PENALTIES FOR DIRECT MARKETING

Authority Cited Food and Agricultural Code Section 47025 (a)

Rev. 5/23/02

CODE SECTION	VIOLATIONS/PENALTY	MINOR \$50-\$150	MODERATE \$151-\$400	SERIOUS \$401-\$1,000
Section I.	Certified Producer Violations			
1. CCR 1392.4(a) FAC 47002	Certified producer selling Product(s) not of their own production.			1 st Violation.
2. CCR 1392.5(c) 1392.7(a)2 FAC 47020	Refusing to submit to inspection.			1 st Violation.
3. CCR 1392.4(d)	Producer not having a certified producer's certificate.			1 st Violation
4. CCR 1392.4(d)	Certified producer selling with an expired certificate and not in the renewal process with CAC.		2 nd NC in 12 months	Repeat NC within 12 months of Moderate penalty.
5. CCR 1392.4(d)	Valid certified producer's certificate not in possession, and/or not posted. (not embossed)	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
6. CCR 1392.4(a) 1392.5(b),(c) 1392.7(a)1	Certified producer selling product(s) which they produced but do not have listed on their certified producer's certificate.	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
7. CCR 1392.4(f)2	Certified producer selling at a certified farmer's market for other certified producer(s). i.e. "Second Cert." <ul style="list-style-type: none"> Authorized certified producer's certificate(s) not in possession and/or posted for other certified producer(s). 	2 nd NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
8. CCR 1392.4(f)2	"Second Cert." <ul style="list-style-type: none"> Product not separated and identified. 	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
9. CCR 1392.4(f)4 CCR 1392.4(f)3	"Second Cert." → Name of certified producer(s) not listed on certificate of other certified producer who is authorized to sell the certificate holder's products. (Agreement was made but paperwork not done <u>not</u> a resell situation). And/or "Second Cert." → Name of certified producer not listed on other producer's certificate that the certificate holder may sell for (Agreement was made but paperwork not done <u>not</u> a resell situation).		1 st Violation	Repeat NC within 12 months of Moderate penalty.
10. CCR 1392.4(f)1	A certified producer representing more than 2 other certified producer(s) in a 12-month period and/or a certified producer being represented by more than 2 certified producer(s) in a 12-month period.		1 st Violation	2 nd or more violations.

NC = Documented notice of noncompliance, or notice of violation.

* = Penalties will be assessed after two documented notices of noncompliance/violation are issued.

Decisions to suspend or revoke a certified producer's certificate, or privileges to participate in certified farmers' markets will be made at the discretion of the agricultural commissioner on a case by case basis.

CODE SECTION	VIOLATIONS/PENALTY	MINOR \$50-\$150	MODERATE \$151-\$400	SERIOUS \$401-\$1,000
Section I. Con't	Certified Producer Violations			
11. CCR 1392.4(f)5	Certified producer selling or offering for sale a greater amount of other certified producer's products than their own.	*2 NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
12. CCR 1392.4(f)9 1392.4(f)10	Certified producer not keeping records of products sold for or by other certified producer. Failure to supply records on demand.	1 st Violation	2 nd Violation	Repeat NC within 12 months of Moderate penalty.
13. FAC 47005	Refusing to allow inspection or entrance.			1 st Violation Plus Suspension and/or Revocation
14. FAC 47005.1	Refusing to allow inspection of products and/or subject products to inspection			1 st Violation Plus Suspension and/or Revocation
15. FAC 47005.2	Refusing to allow seizure of evidence.			1 st Violation Plus Suspension and/or Revocation
16. FAC 47022	Nonconforming products, i.e. <ul style="list-style-type: none"> • Minimum Grade Stds. • Minimum Maturity Stds. • Closed Consumer Cont.(IRQ) • Egg Labeling Requirements 	3 NC's in 12 months	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
17. FAC 47022.1	Deceptive pack i.e. nice cherries on top of basket, tiny ones on the bottom.	1 NC's in 12 months	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
18. FAC 47022.2	Mislabel/Misleading statement.	2 NC's in 12 months	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
19. FAC 47022.3	Falsify documents or false statements to obtain certificate.			1 st Violation Plus Suspension and/or Revocation
20. FAC 47022.4	Unlawfully removing NC or product held under NC.			1 st Violation
21. FAC 47022.5	Refusing to submit for inspection or stop any vehicle for inspection.			1 st Violation Plus Suspension and/or Revocation
22. FAC 47022.6	Refusing to allow inspection of property, storage etc.			1 st Violation Plus Suspension and/or Revocation
23. FAC 47022.7	Altering any official document issued by an Enforcing Officer.			1 st Violation Plus Suspension and/or Revocation

Section II.	Certified Farmers' Market Violations	Minor \$50-\$150	Moderate \$151-\$400	Serious \$401-\$1000
1. CCR 1392.9(a) 1	Failure to ensure the sellers are represented by the proper person selling.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
2. CCR 1392.9(a)2	Failure to ensure the producers are selling only certified and non-certifiable products in the area designated as the CFM.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.

Section II.	Certified Farmers' Market Violations (Con't)	Minor \$50-\$150	Moderate \$151-\$400	Serious \$401-\$1000
3. CCR 1392.9(a)3	Failure to ensure the certified producers possess a valid certified producer's certificate.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
4. CCR 1392.9(a)3	Failure to ensure the certified producers post a valid certified producer's certificate.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
5. CCR 1392.9(a)4	Failure to ensure the certified producers lists their certified products on their certificate.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
6. CCR 1392.9(a)5	Failure to ensure the producers are selling only approved non-certifiable ag. products.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
7. CCR 1392.9(a)6	Failure to ensure the producer's products being sold for other producer(s) are separated and identified and all certified producer's names are cross referenced.	2 Market NC's in 12 months.	Repeat NC within 12 months of Minor penalty.	Repeat NC within 12 months of Moderate penalty.
8. CCR 1392.9(b)	Failure to collect all of the load lists required on any single market day. Failure to keep load lists for 18 months. Did not collect at least 20% of the load lists on any single market day.	2 Market NC's in 12 months. →	Repeat NC within 12 months of Minor penalty. →	Repeat NC within 12 months of Moderate penalty. 1 st Violation
9. CCR 1392.6(g)	Failure to provide state and/or county with current market rules.	*2 NC's in 12 months.		3 or more NC's in 12 months.
10. CCR 1392.4(f)	Allowing one certified producer to sell for another certified producer without providing for it in the market rules.		*2 NC's in 12 months.	3 or more NC's in 12 months.
11. CCC 1392.6(d), (e), (f)	Market rules must be in compliance.		*2 NC's in 12 months.	Repeat NC within 12 months of Moderate penalty.
12. FAC 47005	Refusing to allow inspection or entrance			1 st Violation Plus Suspension of Participation Privileges and/or Revocation
13. FAC 47022.2	False, deceptive, misleading signs, statements, or documents	2 NC's in 12 months	Repeat NC within 12 months of minor penalty	Repeat NC within 12 months of moderate penalty
14. FAC 47022.3	Falsify documents or false statements to obtain market Certificate			1 st Violation Plus Suspension of Participation Privileges and /or Revocation
15. FAC 47022.4	Unlawfully removing NC or products held under NC			1 st Violation
16. FAC 47022.6	Refusing to allow inspection of property			1 st Violation Plus Suspension of Participation Privileges and/or Revocation
18. FAC 47022.7	Altering any official document issued by enforcing officer			1 st Violation Plus Suspension of Participation Privileges and/or Revocation